



Docket No.: 201081US3

OBLON
SPIVAK
McCLELLAND
MAIER
&
NEUSTADT
P.C.

ATTORNEYS AT LAW

GREGORY J. MAIER
(703) 413-3000
GMAIER@OBLON.COM

DAVID A. BILODEAU
(703) 412-6444
DBILODEAU@OBLON.COM

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

RE: Application Serial No.: 09/750,664

Applicants: Hiroshi FUKUMOTO, et al.
Filing Date: January 2, 2001
For: LIQUID SPRAYER
Group Art Unit: 3752
Examiner: KIM, C. S.

SIR:

Attached hereto for filing are the following papers:

PROVISIONAL ELECTION

Our check in the amount of \$0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



22850

(703) 413-3000 (phone)
(703) 413-2220 (fax)
I:\atty\Jd\20s\201081\201081-elect-cvr.doc

David Bilodeau
Gregory J. Maier
Registration No. 25,599
David A. Bilodeau
Registration No. 42,325

RECEIVED

SEP 25 2002
TECHNOLOGY CENTER R3700



201081US3

S 8/25/02
#6/Elections

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF : :

Hiroshi FUKUMOTO, et al. : EXAMINER: KIM, C. S.

SERIAL NO: 09/750,664 : :

FILED: JANUARY 2, 2001 : GROUP ART UNIT: 3752

FOR: LIQUID SPRAYER

PROVISIONAL ELECTION

ASSISTANT COMMISSIONER OF PATENTS
WASHINGTON, DC 20231

RECEIVED

SEP 25 2002

TECHNOLOGY CENTER R3700

SIR:

In response to the Election of Species Requirement dated August 22, 2002, Applicants elect with traverse the Species A, as shown in Figure 1, corresponding to Claims 1-3, a liquid sprayer. Applicants make this election based on the understanding that Applicants are not prejudiced against filing one or more divisional applications that cover the non-elected claims.

MPEP §806.04(f) requires:

...Claims to be restricted to different species must be mutually exclusive... The outstanding Official Action fails to address in any way whether the pending claims recite mutually exclusive characteristics. This provides one basis for traversing the election of species requirement.

Additionally, the Office Action merely states that the present application contains nine patentably distinct species. No basis whatsoever is given in support of such a finding as required by MPEP § 816, which states:

The particular reasons relied on by the examiner for holding the inventions as claimed are either independent or distinct should be concisely stated. A mere

statement of conclusion is inadequate. The reasons upon which the conclusion is based should be given....

Moreover, a proper search of any one of the species cited in the Office Action would also necessarily include a search of the other species as well. Examination of all species in the present application would therefore not present a substantially greater burden on the part of the office, whereas election of a single species presents a substantial burden on the Applicants. It is therefore respectfully submitted that the reasons for insisting upon an election of species should be set aside.

Accordingly, it is respectfully requested that the requirement to elect a single species be withdrawn, and that a full examination on the merits of Claims 1-20 be conducted.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Gregory J. Maier
Attorney of Record
Registration No: 25,599
David A. Bilodeau
Registration No: 42,325



22850

Tel: (703) 413-3000

Fax: (703) 413-2220

GJM/DAB/JD/ys

I:\atty\Jd\20s\201081\201081-elect.doc